AMENDMENTS TO THE DRAWINGS

Please amend Figure 2, as shown in the attached red-line drawings and as shown in the replacement drawings to change the term "Email Service" for element 232n to recite "Other Services". This is consistent with the language of the specification found in paragraph [0034], for example.

REMARKS

By this paper, claims 1, 10, 12, 20, 30 and 39 have been amended and claims 26-29 have been cancelled, such that claims 1-8, 10-25 and 30-47 remain pending, of which claims 1, 12, 20, 30 and 39 are the only independent claims at issue. The Drawings have also been amended, as reflected in the attached revised mark-up redline copy and replacement Drawings to fix Figure 2. The specification has also been amended in paragraph [0034] to provide explicit recitation of an illustrated reference.

The Final Office Action, mailed May 25, 2005, considered and rejected claims 1-8, 10-47. Claims 1-3, 11, 17, 34, and 43 were rejected under 35 U.S.C. 103(a) as being unpatentable over Allard et al. (U.S. Patent No. 6,018, 619). Claims 4-6, 32 and 41 were rejected under 35 U.S.C. 103(a) as being obvious over Allard et al. (U.S. Patent No. 6,018,619) in view of Dice (U.S. Patent No. 6,289,451 B1). Claims 7-8, 10- 18- 24, 35 and 44 were rejected under 35 U.S.C. 103(a) as being obvious over Allard et al. (U.S. Patent No. 6,018, 619) in view of Dietz et al. (U.S. Patent No. 6,651,099 B1). Claims 20-21, 26, 30-31 and 39-40 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 12, 20, 26, 30 and 39 were rejected under 35 U.S.C. 112, second paragraphs, as being indefinite. Claim 10 was also objected to for having the wrong claim dependency. Claim 10 has been amended to overcome this error.

There were also some drawing errors to consider. In particular, it has been asserted that elements 234a and 220c of Figure 2 did not exist. While it is noted that element 234a is present in paragraph [0030], paragraph [0034] has been amended to provide explicit reference to 220c. The drawings were also objected to for having elements 232b and 232n designate email service. In this regard, Figure 2 has been amended, as shown in the redline mark-up drawings and the

replacement drawings, to designate 232n as "Other Services", and as clearly supported by the specification in paragraph [0034].

It was also asserted in the last rejection that the amendments made in amendment A were not supported adequately by the specification. Applicants respectfully disagree. In particular, the elements for receiving and generating a plurality of metering packets are clearly supported by the specification, including the disclosure found in paragraphs [0009]-[0010], [0033]-[0035], [0044]-[0049]. In this disclosure there are numerous references to sending and receiving multiple metering packets, sometimes even redundant metering packets. There are even also numerous references to determining how many metering packets to be sent. Accordingly this rejection should be withdrawn.

Attention will now be directed to the §112 rejections based on an apparent lack of support for some of the claim limitations that deal with receiving multiple metering packets corresponding to a single session, such as, but not limited to session-in-progress metering packets and session-ending packets. Although this limitation was already inferred by the claims as originally filed, and reference has been directed to paragraphs [0010] and [0032], the Examiner still asserts there is not adequate support. Applicants disagree. In particular, these paragraphs do support such embodiments, as do other paragraphs throughout the specification, including, but not limited to paragraphs [0009]-[0010], [0033]-[0035], [0044]-[0049]. As one specific example, paragraph [0033] explicitly recites the "two types of metering packets: a session-in-progress metering packet and a session-ending metering packet. The session-in-progress indicates that a session continues to be active, whereas a session-ending packet indicates that a session has terminated..." It is clear from this as well as the other disclosure that multiple metering packets can be sent and received and that they can correspond to a single

session. Other §112 rejections based on antecedent basis have been fixed by the amendments to the claims. Accordingly, the §112 rejections should now be withdrawn.

With regard to the substantive issues, based on the art, Applicants note that the cited art of record fails alone and in combination to anticipate or make obvious the claimed invention as recited in the pending independent claims (1, 12, 20, 30 and 39) or any of the corresponding dependent claims.

The embodiment recited in claim 1, for example, recites a method implemented in a computer network that comprises one or more servers providing one or more services to at least one client, and wherein the at least one client accesses the one or more services through one of the servers during a plurality of sessions created in response to a login request from the at least one client, with at least some of the sessions occurring simultaneously, and wherein access to the one or more services during a particular session may include a charged time portion and a free time portion. The recited method includes tracking the at least one client usage of the one or more services during each session and whether, for each session the access to a service is a charged time portion or a free time portion. The recited elements of the method further include a server receiving metering packets from the client, wherein each of the one or more metering packets being generated at the at least one client and each metering packet being used at the at least one client to store data for tracking usage of one or more services during each session. Each of the metering packets comprise a data structure for storing a session identifier element that links a particular metering packet with a particular session, a time element indicating the client's usage of the one or more services, comprising a charged time portion and a free time portion, and a sequence number element.

The server then updates a usage database based on the received one or more metering packets by using the sequence number to determine whether each metering packet is redundant of any prior metering packet already stored in the database, and if so, discarding it, and if not, then storing the metering packet in the database in order to store the data contained in the metering packet, and from which it may be determined from the time element whether the client's usage of the one or more services during the session for that metering packet is a charged time portion or a free time portion.

Claims 12 and 20 recite a method and a corresponding computer program product that implement similar claim elements to that of claim 1, from the perspective of the server and that includes the server identifying one or more sessions through which the client has accessed the services, monitoring metering packets that are received from the client, and tracking the client's usage of the one or more services during each session based on the received one or more metering packets in order to store data from which it can be determined whether the client's usage of the one or more services during each session is a charged time portion or a free time portion.

Claims 30 and 39 are directed to similar methods and computer program products recited from the perspective of the client. Support for all of the claim amendments includes the previously cited passages that have been specifically identified above, as well as other passages throughout the specification.

The claims have been rejected in view of various combinations of Allard, Dice and Dietz. However, these references fail to disclose or suggest the claimed invention. In particular, among other things, the combination of art fails to disclose any such method or system in which a client generates and sends a server a plurality of metering packets, wherein each metering packet

comprising a data structure for storing a time element indicating the client's usage of the one or more services, wherein the time element comprising a charged time portion and a free time portion. In fact, the Examiner agrees that Allard does not include a free time portion, for example. However, to compensate for this failing, the Examiner asserts it would be obvious to do this because Allard discloses a packet having an option field and an interest field and also suggests other statistics may be determined to be useful. In this regard, Applicants respectfully submit that this fails to rise to the level required for establishing a *prima facia* case of obviousness. In fact, no motivation was provided by the Examiner for even making such a conclusion, even if it were possible.

With regard to the foregoing rejection and other rejections in this case, Applicants would like to remind the Examiner that simply because something is possible does not make it obvious. In particular, in order to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143 (emphasis added). Furthermore, "FACT THAT THE CLAIMED INVENTION IS WITHIN THE CAPABILITIES OF ONE OF ORDINARY SKILL IN THE ART IS NOT SUFFICIENT BY ITSELF TO ESTABLISH PRIMA FACIE OBVIOUSNESS. A statement that modifications of the prior art to meet the claimed invention would have been "'well within the ordinary skill of the art at the time the claimed invention was made'" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings." Applicants would also like to point out that with regard to any art that might be combined by the Examiner in any future rejection of this case, that the motivation for making such a combination must come from the references themselves, not the Applicant's own

application, otherwise such a combination represents impermissible hindsight. In particular, as stated by the MPEP § 2143, "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must **both** be found in the prior art, not in application's disclosure."[1]

Notwithstanding the foregoing, the Examiner has also indicated that Allard does not disclose receiving a session key. Applicants agree, particularly when considering the session identifier element is part of a metering packet that links a particular metering packet with a particular session, as claimed. Accordingly, for at least the foregoing reasons, Allard fails to teach or suggest the claimed invention. The other references also fail to compensate for the failings of Allard.

The Examiner has indicated that Dice suggests a session key. However, Dice fails to disclose a session identifier that is part of a metering packet that links a particular metering packet with a particular session, as claimed, particularly when considering the metering packet also includes a time element indicating the client's usage of the one or more services, wherein the time element comprising a charged time portion and a free time portion, as described above, or a sequence number element as recited in the claims.

Dietz also fails to disclose or suggest these things.

Accordingly, for at least these reasons, as well as the others that were discussed in the last amendment, Applicants respectfully submit that the cited art fails to anticipate or make obvious Applicants' invention, as claimed, for example, in the independent claims. In view of this, Applicants note for the record that the other rejections and assertions of record with respect to

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[1] MPEP 2143.01, Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See also In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000). MPEP 2143. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991).

the independent and dependent claims are now moot, and therefore need not be addressed individually. However, in this regard, it should be appreciated that Applicants do not necessarily acquiesce to any assertions in the Office Action that are not specifically addressed above, and hereby reserve the right to challenge those assertions at any appropriate time in the future, should it arise, including any official notice.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 25 day of August, 2005.

Respectfully submitted,

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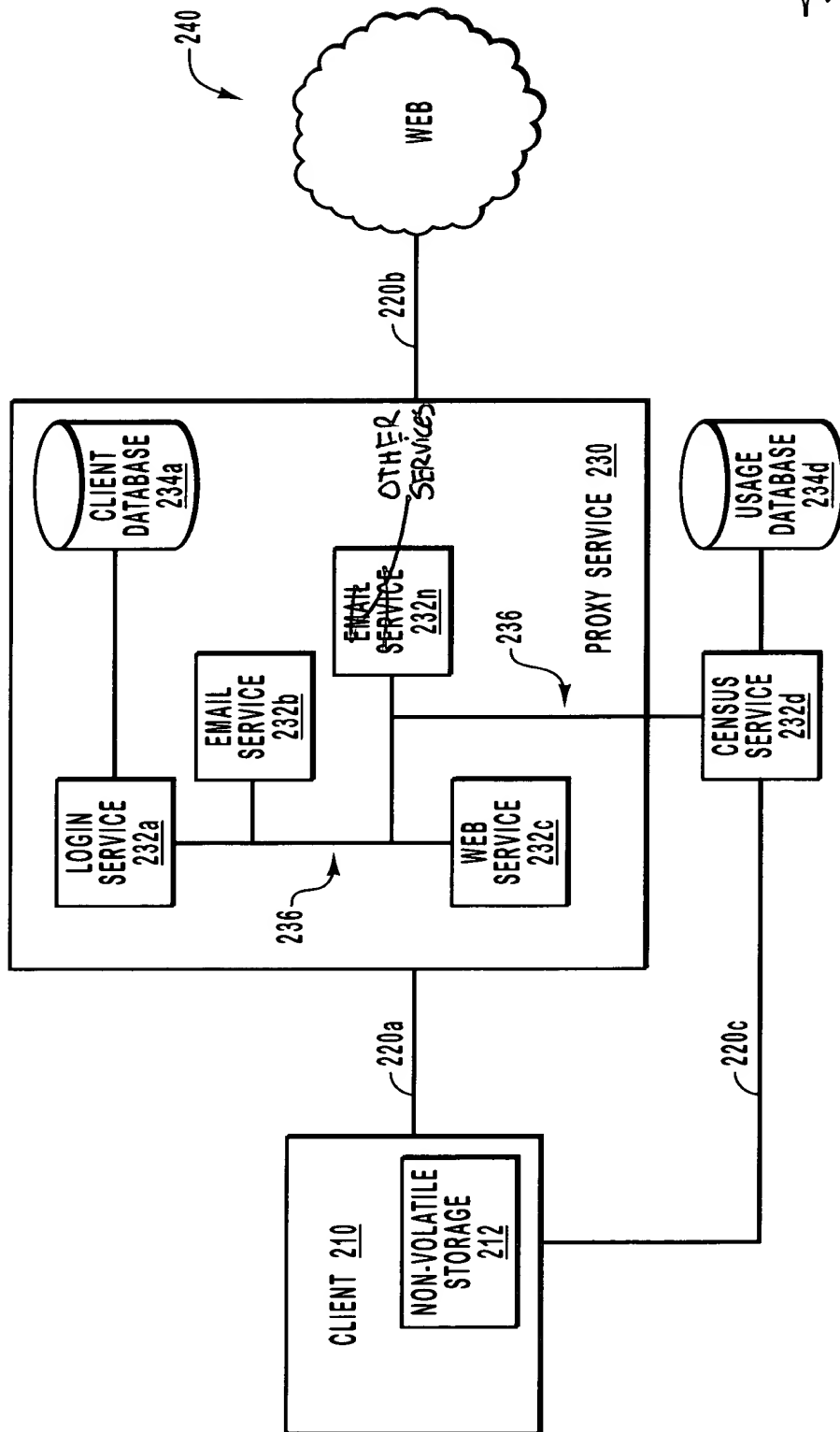Customer No. 047973

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Revised mark-up

240

WEB

220b

CLIENT DATABASE 234a

OTHER SERVICES

EMAIL SERVICE 232n

EMAIL SERVICE 232b

LOGIN SERVICE 232a

236

WEB SERVICE 232c

236

PROXY SERVICE 230

CENSUS SERVICE 232d

USAGE DATABASE 234d

220a

220c

CLIENT 210

NON-VOLATILE STORAGE 212

FIG. 2